

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

RANDY A. HART,

Plaintiff,

v.

CASE NO. 8:23-cv-817-CEH-JSS

AUBURNDALE POLICE
DEPARTMENT,

Defendant.

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ORDER

Mr. Hart, a Florida pre-trial detainee at the Polk County Jail, initiated this action *pro se* by filing a civil rights complaint (Doc. 1) in which he alleges officers falsely arrested him. Mr. Hart's failure to pay the filing fee is construed as a request for leave to proceed *in forma pauperis* under 28 U.S.C. § 1915.

Section 1915(g) provides:

- (g) In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g).¹

¹ Although Mr. Hart is a pre-trial detainee, he is subject to § 1915(g) because “the term ‘prisoner’ means any person incarcerated or detained in any facility who is accused of,

Mr. Hart's prior cases dismissed as either frivolous, malicious, or for failing to state a claim upon which relief may be granted include *Hart v. Judd*, 8:11-cv-1590-VMC-TBM (M.D.Fla.); *Hart v. State of Florida*, 8:13-cv-2533-JSM-MAP (M.D.Fla.); *Hart v. Knight*, 8:16-cv-1337-VMC-JSS (M.D.Fla.); and *Hart v. Hays*, 8:16-cv-1391-EAK-TGW (M.D.Fla.). Because Mr. Hart has had at least three prior dismissals that qualify under Section 1915(g) and because he alleges no facts showing he is under imminent danger of serious physical injury, he may not proceed *in forma pauperis*. He may initiate a new civil rights case by filing a civil rights complaint and paying the filing fee in full.

Accordingly, the complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE** to filing a new complaint, in a new case with a new case number, upon the payment of the filing fee. The **CLERK** is directed to close this case.

ORDERED in Tampa, Florida, on April 27, 2023.


Charlene Edwards Honeywell
United States District Judge

Copy to: Randy A. Hart, *pro se*

convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.” 28 U.S.C. § 1915(h).